#433

BILL NO. Z-90-06-38

ZONING MAP ORDINANCE NO. Z-Withdrawn

AN ORDINANCE amending the City of Fort Wayne Zoning Map No. M-22.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated a M-1 (Light Industrial) District under the terms of Chapter 33 of the Code of the City of Fort Wayne, Indiana of 1974:

Lots 13, 14, 15, 16, 17, 18, and 19 in Young's Place Addition to the City of Fort Wayne, Indiana

and the symbols of the City of Fort Wayne Zoning Map No. M-22, as established by Section 11 of Chapter 33 of the Code of the City of Fort Wayne, Indiana are hereby changed accordingly.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Carl Kory
Councilmember

APPROVED AS TO FORM AND LEGALITY:

J. Timothy McCaulay
J. TIMOTHY MCCAULAY, CITY ATTORNEY

Read the first time in full and on motion by Long, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock ____ M., E.S.T.

DATED: 6-26-90

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by _____, seconded by _____, and duly adopted, placed on its passage. PASSED LOST by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES				
BRADBURY				
BURNS				
EDMONDS				
GiaQUINTA				
HENRY				
LONG				
REDD				
SCHMIDT				
TALARICO				

DATED: _____

SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. _____ on the _____ day of _____, 19____

ATTEST: (SEAL)

_____
SANDRA E. KENNEDY, CITY CLERK

_____
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 19___, at the hour of _____ o'clock _____ .M., E.S.T.

_____
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____, 19____, at the hour of _____ o'clock _____ M., E.S.T.

_____
PAUL HELMKE, MAYOR

PRESCRIBED BY STATE BOARD OF ACCOUNTS

GENERAL FORM NO. 352

CK # 522

RECEIPT

№ 7305

COMMUNITY DEVELOPMENT & PLANNING

FT. WAYNE, IND., May 16 1990

RECEIVED FROM George M. O'Hara II $ 100.00

THE SUM OF One Hundred and no/100's DOLLARS

ON ACCOUNT OF Rezoning Petition - Cumberland Ave

Lot 13-19 Young's Placey Add.

W. E. [illegible]

AUTHORIZED SIGNATURE

PAID BY: CASH ☐ CHECK ☐ M.O. ☐

PETITION FOR ZONING ORDINANCE AMENDMENT

RECEIPT NO. _____

DATE FILED _____

INTENDED USE _____

THIS IS TO BE FILED IN DUPLICATE

I/We George Michael O'Hara II
(Applicant's Name or Names)

do hereby petition your Honorable Body to amend the Zoning Map of Fort Wayne Indiana, by reclassifying from a/an R2 District to a/an M1 District the property described as follows:

Lot 13 Young's Place addition to the city of Fort WAYNE IN Allen County Indiana

Lot 14 Young's Place addition to the City of Ft. Wayne IN. Allen County Ind.

Lot 15 & 16 Young's Place addition to the City of Ft. Wayne IN Allen Co.

Lot 17-18-19 youngs Place Addition to City of Ft. Wayne In.

(Legal Descrption) If additional space is needed, use reverse side.

ADDRESS OF PROPERTY IS TO BE INCLUDED:

139, 137, 135 cumberland and 3716 Northrop

(General Description for Planning Staff Use Only)

I/We, the undersigned, certify that I am/We are the owner(s) of fifty-one percentum (51%) or more of the property described in this petition.

Jerry S. Lydy	137 Cumberland ST.	Jerry S Lydy
Michael A. Archer	135 Cumberland st	Michael A. Archer
Irene Baker	3716 Northrop	Irene Baker
(Name)	(Address)	(Signature)

(If additional space is needed, use reverse side.)

Legal Description checked by _____
(OFFICE USE ONLY)

NOTE FOLLOWING RULES

All requests for deferrals, continuances, withdrawals, or requst that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice pertaining to the ordinan being sent to the newspaper for legal publication. If the request for deferral continuance or request that ordinances be taken under advisement is received prior to the publication of the legal ad being published the head of the Plan Commission staff shall not put the matter on the agenda for the meeting at whic it was to be considered. The Plan Commission staff will not accept request from petitioners for deferrals, continuances, withdrawals, or requests that an ordinance be taken under advisement, after the legal notice of said ordinance is forwarded to the newspaper for legal publication but shall schedule the matt for hearing before the City Plan Commission. (FILING FEE $100.00)

Name and address of the preparer, attorney or agent.

George Michael O'Hara II	139 cumberland 46805	483-0889
(Name)	(Address & Zip Code)	(Telephone Number)

COMMUNITY DEVELOPMENT AND PLANNING / Division of Long Range Planning & Zoning and (CITY PLAN COMMISSION) / Room #830, City-County Building, One Main Street, Fort Wayne, IN 46802 (PHONE: 219/ 427-1140).

Applicants, Property owners and preparer shall be notified of the Public Hearin approximately ten (10) days prior to the meeting.

Legal Description of property to be rezoned.

Owners of Property

(Name)	(Address)	(Signature)
George Michael O'Hara II	139 Cumberland	George Michael O'Hara II

NOTE: All checks are to be made payable to: CITY OF FORT WAYNE

This form is to be filed in duplicate.

NOTICE:

FILING OF THIS APPLICATION GRANTS THE CITY OF FORT WAYNE PERMISSION TO POST "OFFICIAL NOTICE" ON THE PETITIONED PROPERTY.

FAILURE TO POST, OR TO MAINTAIN POSTING CAN PREVENT THE PUBLIC HEARING FROM BEING HELD.

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on June 26, 1990 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-90-06-35; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on June 18, 1990.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO NOT PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will be injurious to the public health, safety, morals and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will be affected in a substantially adverse manner;

(3) the need for the rezoning does not arise from conditions peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

(4) the strict application of the terms of the zoning ordinance will not constitute an unusual and unnecessary hardship to this property;

(5) the grant interferes substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law; and,

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held June 25, 1990.

Certified and signed this
28th day of June 1990.

Robert Hutner
Secretary

#433

ORIGINAL

ORIGINAL

DIGEST SHEET

TITLE OF ORDINANCE Zoning Ordinance Amendment

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE 135, 137 and 139 Cumberland Avenue and 3716 Northrop St.

Z-90-06-35

EFFECT OF PASSAGE Property is presently zoned R-2 - Two Family Residential. Property will become M-2 - General Industrial.

EFFECT OF NON-PASSAGE Property will remain R-2 - Two Family Residential.

MONEY INVOLVED (Direct Costs, Expenditures, Savings)

(ASSIGN TO COMMITTEE (J.N.)

FACT SHEET

Z-90-06-35
BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE
Zoning Ordinance Amendment
From R-2 to M-1

APPROVAL DEADLINE

REASON

DETAILS

Specific Location and/or Address
135, 137 & 139 Cumberland Avenue and
3719 Northrop Street

Reason for Project
Dog Grooming Business

Discussion (Including relationship to other Council actions)

18 June 1990 - Public Hearing

See Attached Minutes of Meeting

25 June 1990 - Business Meeting

Motion was made and seconded that the ordinance be returned to the Comon Council with a DO NOT PASS recommendation.

Of the six (6) members present five (5) voted for the motion, one (1) did not vote.

Motion Carried.

POSITIONS	RECOMMENDATIONS
Sponsor	City Plan Commission
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) George Michael O'Hara II City Department Other
Opponents	Groups or Individuals Jack Wickland, 227 Cumberla Scott Waikel, 1929 Beineke Basis of Opposition -detriment to residential character of area
Staff Recommendation	☒ For ☐ Against Reason Against
Board or Commission Recommendation	By ☐ For ☒ Against ☐ No Action Taken ☐ For with revisions to conditions (See Details column for condition
CITY COUNCIL ACTIONS (For Council use only)	☐ Pass ☐ Other ☐ Pass (as amended) ☐ Hold ☐ Council Sub. ☐ Do not pas

DETAILS

POLICY/PROGRAM IMPACT

Policy or Program Change	☐ No ☐ Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start — Date 16 May 1990

Projected Completion or Occupancy — Date 28 June 1990

Fact Sheet Prepared by — Date 28 June 1990

Patricia Biancaniello

Reviewed by — Date 6/28/90

Reference or Case Number

Public Hearing on a Zoning Map Amendment

a. Change of Zone #433
From R-2 to M-1
135, 137 & 139 Cumberland Avenue & 3716 Northrop St

Susan Rogers, 8201 appeared on behalf of her brother, the petitioner George O'Hara II. She stated that the property surrounding Lots 13 through 19 is zoned M-1. She stated that they feel that their rezoning request would be consistent with this surrounding zoning. She stated that they are requesting the rezoning in order to convert their garage into a dog grooming business. She stated that the grooming shop would not be a kennel. She stated that the dogs would only be inside the shop. She stated that they did not feel this business would disturb the other residences in the area. She stated that Mr. O'Hara owns the property at 139 Cumberland, where they want to open the dog grooming shop, and still intends to live in the home.

Steve Smith made a matter of record that they had received a letter from a Mr. Jerry Lydy stating that he wished to withdraw his request for rezoning on his lot.

Mel Smith questioned if rezoned would they allow any pets to be left overnight on the property.

Ms. Rogers stated they would not. She stated they would probably have no more than 4 or 5 dogs there in a days time and they take only a couple of hours to groom.

Robert Hutner questioned what type of hours they would have.

Ms. Rogers stated that they wanted to cater to the working person so they would like to remain open to 7 or 8 in the evening.

Jack Wickland, 227 Cumberland Avenue stated that he was opposed to the rezoning because he felt it would cause an erosion of the residential environment and felt it would open the remainder of the street up for commercial rezoning. He stated that they are already surrounded by commercial on all four sides.

Scott Waikel, 1929 Beineke Road, stated that he owned the property at 145 Cumberland Avenue. Mr. Waikel stated that he was informed of the meeting by his renters. He stated that his renters informed him that they would not renew a lease if the property in question was rezoned. He stated that he was opposed to the rezoning because he felt it would lower the quality of residential living on this street.

There was no one else present who wished to speak in favor of or in opposition to the proposed rezoning.

George Michael O'Hara II, et al, requests a change of zone from R-2 to M-1.

Location:	The northeast corner of Northrop and Cumberland Ave. (135, 137, 139 Cumberland, and 3716 Northrop)		
Legal:	Lot 13 through 19 Young's Place Addition		
Land Area:	Approximately 0.78 acres		
Zoning:	R-2		
Surroundings:	North	M-1	Commercial & open
	South	M-1 & R-2	Residential
	East	R-2	Residential
	West	M-1	Industrial

Reason for Request: Not stated on petition

Neighborhood Assoc.: None

Neighborhood Plan: No comment.

Comprehensive Plan: The General Land Use Policies of the Comprehensive Plan state that rezoning and development proposals should be compatible with existing and planned land uses, and should not establish an undesirable precedent in the area to be developed. The goal in the Middle Ring is to maintain investment and prevent deterioration. This proposal is within the guidelines established in the Comprehensive Plan. An M-1 would be consistent with adjacent zoning and would not disrupt the small scattered residential development to the east along Cumberland Ave. since this is essentially a residential area already surrounded by other land uses.

Landscape: No comment.

Planning Staff Discussion:

Initial discussion with staff addressed the possible rezoning of lot 13 only. It was suggested that the petition might be better received if it would allow for a more logical extension of the industrial zoning. The submitted petition would include the property from the Northrop intersection east to lot 13.

The petition was filed representing seven lots and four property owners. After the publication of the legal advertisement, we received a letter from one of the lot owners requesting that he be allowed to withdraw his property from the petition. If the Plan Commission would choose to honor his request and delete his lot (lot 14) from the petition, the amended petition would no longer represent an appropriate change of zone, and we would therefore suggest a Do Not Pass recommendation. If, however, the Commission would choose to proceed with the petition as filed, we believe the following evaluation would be appropriate.

As the Commission is aware, Northrop Street currently carries substantial volumes of traffic. Other than the existing housing stock along Cumberland Ave., most of the area has been developed with either commercial or industrial uses. To our knowledge, there is no development proposed for the entire area at this time. The owner of lot 13 is the only one that currently has any intention of establishing a non-residential use.

While we are always concerned with the possible loss of housing stock, and the impact on residential areas, we also realize that the potential for non-residential uses along this street is very strong. Cumberland Ave. represents a pocket of residential development that is already surrounded by industrial zoning and non-residential uses. While this petition does not include all of Cumberland Ave., the recently passed requirements for the screening of outdoor storage would provide some protection for the remaining residential zoning.

Under the established evaluation criteria, we believe that approval is warranted. The petition is compatible with the Comprehensive Plan, and the overall character of the general area. Approval will allow the zoning to be placed, and hopefully a gradual conversion will take place, enhancing the future growth of the area. We do not believe that the highest or best use of this area is in residential development, and further feel that the principles of responsible development and growth are best served by rezoning this area, and establishing a policy that does not support non-residential zoning any further south than currently exist.

If the Plan Commission supports this petition, then we would strongly encourage other property owners along this street to join together in seeking a similar change of zone. Approval would acknowledge the goals of the Comprehensive Plan for this area, and clearly show support for potential non-residential growth.

Recommendation: Do Pass, for the following reasons:

1) Approval would be consistent with the Comprehensive Plan.

2) Growth patterns appear to indicate the potential for this area

to be developed non-residentially, in keeping with surrounding uses.

3) Approval would represent the highest or best use of the property, due to the surrounding land uses.

Withdraw JJB.
7/24/90

July 18, 1990

Dear Honorable City Council members,

I George Michael O'Hara II, 139 Cumberland, lot #13 wish to withdrawl the rezoning petition; Bill number Z-90-06-35. I am the initiator of this petition and have the $100.00 filing fee invested.

I had all landowners supporting this rezoning at the time that I filed. Lot 14 decided against the M1 zoning shortly before the first hearing. I have full support from the landowners once again, but I would like to withdrawl this petition until the landowners can come to a decision that they can stand by.

Thank you for your time on this matter.

George Michael O'Hara II

Jerry S. Lyles
137 Cumberland ST.

Please send to C.D. + P. for their records

Thanks,
Janet

BILL NO. Z-90-06-39

Hold for 7/23

REPORT OF THE COMMITTEE ON REGULATIONS

JANET G. BRADBURY, CHAIRPERSON
DAVID C. LONG, VICE CHAIRMAN
EDMONDS, SCHMIDT, TALARICO

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending the City of Fort Wayne Zoning Map No. M-22

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) (~~RESOLUTION~~)

DO PASS	DO NOT PASS	ABSTAIN	NO REC

DATED:

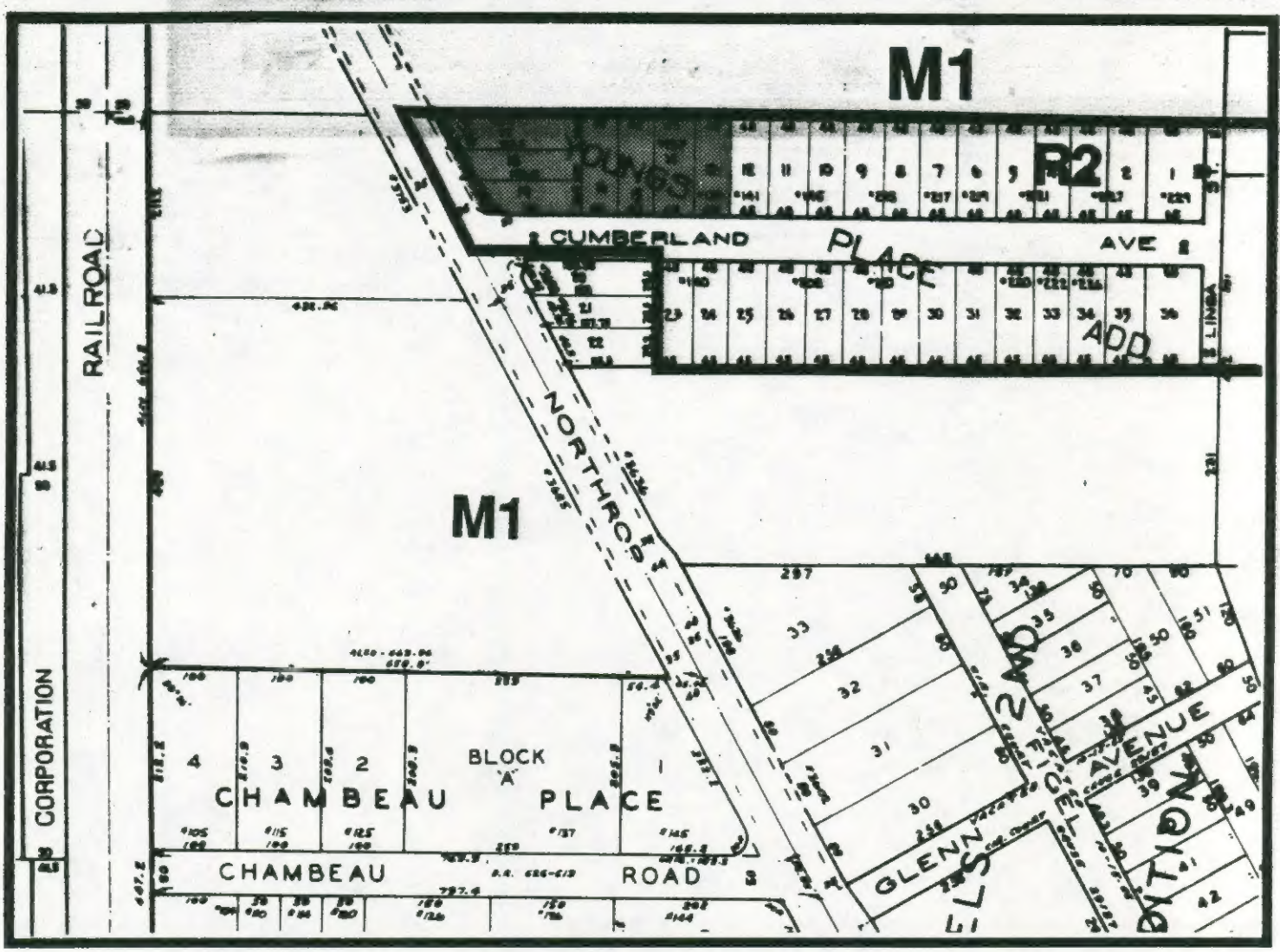
Sandra E. Kennedy
City Clerk

REZONING PETITION #433

A PETITION TO AMEND THE ZONING MAP BY RECLASSIFYING THE DESCRIBED PROPERTY FROM A **R2** DISTRICT TO A **M1** DISTRICT.

MAP NO. **M-22**

COUNCILMANIC DISTRICT NO. **3**



ZONING:

R2 RESIDENTIAL DISTRICT

M1 LIGHT INDUSTRIAL

LAND USE:

☐ *SINGLE FAMILY*

☐ *COMMERCIAL*

LW

SCALE: 1"=200'

DATE: 5-31-90

N